

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EAST WIND INDUSTRIES, INC., :
and DELAWARE EAST WIND, INC., :
Plaintiffs, : CIVIL ACTION NO. 97-2615 (MLC)
v. :
THE UNITED STATES OF AMERICA, :
Defendant. :
_____ :

**ORDER APPOINTING
RULE 53 MASTER**

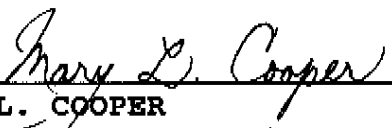
This matter comes before the Court pursuant to Rule 53 Notice and Order to Show Cause filed herein (dkt. entry 89); and the Court having reviewed the responsive papers submitted by both parties (dkt. entries 91 and 92); and the matter being decided on the papers pursuant to F.R.Civ.P. ("Rule") 78; and for the reasons stated in said Rule 53 Notice and the accompanying Order on Motions (dkt. entry 90); and good cause appearing,

IT IS, on this 31st day of January, 2006, **ORDERED:**

- (1) The Court hereby invokes the procedure set forth in Rule 53 to appoint a master, pursuant to Rule 53(a)(1)(C), to "address ... post-trial matters that cannot be addressed effectively and timely by an available district judge or magistrate judge of the district," specifically to make the calculation required under the Mandate of the Court of Appeals filed herein on October 26, 2004 ("Mandate"), by identifying the correct rates of IRS overpayment

interest applicable to the sums and periods stated in the Mandate and making a recommendation to this Court to support entry of a Corrected Judgment; and

- (2) The Court hereby appoints Timothy J. King, CPA, CFE, ("Master") to perform the services under this Order;
- (3) The Court hereby determines that the fair allocation between the parties of the reasonable expenses of this appointment, pursuant to Rule 53(h), is that the first \$1.00 of said expense is imposed upon the plaintiffs, and the balance of said expense is imposed upon defendant IRS; and
- (4) The parties are hereby directed to contact the Master within fifteen (15) days of the filing of this Order, and to provide the Master with all materials and argument as the Master may require; and
- (5) The Master is hereby requested to make a written recommendation to this Court (with copies to counsel for the parties) to support entry of a Corrected Judgment in this matter; and
- (6) The Master is hereby authorized to submit his statement of fees and expenses to this Court, for entry of an order directing payment thereof in accordance with this Order.


MARY L. COOPER
United States District Judge